

### **REMARKS/ARGUMENTS**

Reconsideration of this application is respectfully requested.

1. **Responses to Arguments.**

Applicant respectfully requests that, if the instant application is not allowed, that the Examiner provide answers to Applicant's questions regarding the content of the Office Action. Each Office Action in this case has contained exactly the same text, with the same misstatements, as support for the rejection. Applicant continues to ask for clarification in the responses, but none of the Office Actions have contained such clarification. How can this case advance if Applicant is unsure which issues have been resolved and which issues have not?

For example, Applicant notes that the Examiner continues to state that Franklin discloses a laminar conductive contact (top of page 3 of the Office Action) and then states that Franklin does not teach laminar contacts (bottom of page 4 of the Office Action). To be clear, ***Franklin does not teach laminar conductive contacts.*** The Examiner agreed with this assessment in the interview on October 12, 2007, which is noted in the response filed on October 12, 2007, and acknowledged it in the Office Action dated December 31, 2007.

Applicants submit that it is difficult to craft a suitable response when such inaccuracies are repeated in each Office Action.

2. **Rejection of Claims 1-9 and 12-20 under 35 U.S.C. § 103(a).**

The Examiner has rejected Claims 1-9 and 12-20 under 35 U.S.C. § 103(a) as being obvious over the combination of U.S. Published Application No. 2002/0022382 by Franklin and U.S. Published Application No. 2002/0127459 by Lenz et al.

(a) **"Laminar contact"**.

The Examiner cites Lenz primarily for teaching laminar contacts. However, Lenz discloses neither of these items. A close reading of Lenz reveals that ***Lenz does not teach laminar contacts; in fact, Lenz teaches no more than Franklin regarding the contacts that are free to contact the membrane electrode assembly (MEA).*** The

interconnect of Lenz, in fact, has outwardly extending fingers or bridges on both sides of it. Thus, just like in Franklin, the contacts that contact the MEA are individual and are raised from the surface. Again, they project outwardly, like fingers, and provide several individual contact points. Putting the interconnect disclosed in Lenz into the Franklin apparatus would give a fuel cell structure having *three* layers of finger-type contacts, with two sets of contacts facing one another and the third set extending outwardly from the surface. Nothing is gained through this combination, and it is unclear if the Franklin apparatus would even operate with the addition.

The Examiner refers to "laminar interconnects" of Lenz, and appears to assert that these interconnects are "laminar" merely because they have a thin plate portion. This is not correct. The inclusion of a thin plate in a structure does not make it a "laminar structure". As the Examiner notes in the Office Action, "laminar" is defined as a thin plate (page 3 of the Office Action). The laminar electrical contact of the claimed invention is, in fact, a thin plate. The interconnect disclosed in Lenz is not a thin plate; it is a plate having outwardly extending finger-like projections, and cannot properly be described as "laminar".

(b) "Separate compliant member and bipolar separator plate".

The Examiner states:

With respect to separate compliant members, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to employ a separate compliant member and bipolar separator plate in the fuel cell of Franklin, because such a modification would require a mere duplication of parts. It has been held that mere duplication of essential working parts of a device involves only routine skill in the art. Multiple laminar plates serve as fuel cell interconnects that increase electrical conductivity in the fuel cell. Alternatively, a well known fuel cell interconnect may be employed in the fuel cell to form the instant structure to increase electrical contact within the cell.

As in the last Response, Applicant continues to admit confusion regarding this assertion. Why is the Examiner making this assertion? What is the rejection addressing?

Regarding the previous response, Applicant pointed out the typographical error in Franklin to show that the BSP and the "thin metal conductive plate" are the same structure in the Franklin reference; that is, that the BSP *is* the "thin metal conductive plate" disclosed in Franklin. This was done because the Examiner persists in stating that Franklin discloses a BSP *and* a "thin metal conductive contact". See, for example, page 3 of the current Office Action, in which the Examiner states, "[the "laminar" limitation of the claim is met] because the conductive contact of Franklin is a thin metal conductive plate". It is not. Franklin contains no laminar contacts. The conductive contact of Franklin is the array of compliant contacts described and shown. Even if Franklin did disclose that the BSP and the laminar contact are the same structure, the claimed invention cannot be obtained by making the cited combination with Lenz.

The Examiner's assertion that that using a "separate compliant member and bipolar separator plate in the fuel cell of Franklin" would be a "mere duplication of parts" makes no sense. These elements not only are not duplicates of one another, but also are not the same structure. In Franklin, the BSP and the compliant members are different structures and serve different purposes. What Franklin does not disclose is the laminar electrical contact that is between and attached to the BSP and the compliant members. The compliant members are sandwiched between the BSP and the laminar contact in the claimed invention.

The Examiner next makes reference to "multiple laminar plates serve as fuel cell interconnects" with no reference to how this relates to the instant invention as claimed. The instant invention uses no fuel cell interconnects, and discloses fuel cell assemblies having a BSP, an MEA, independently-acting compliant contacts, and a separate laminar electrical contact, all of which are combined in a specific orientation, as recited in the claims. Only Lenz discusses "interconnects". The claimed invention does not refer to "interconnects". Appropriating Lenz's terminology to describe Applicant's invention in terms that have no meaning in Applicant's invention is inappropriate. The Applicant respectfully requests that the Examiner explain what "fuel cell interconnects" are in the

context of the claimed invention.

(c) "Apertures".

The Examiner appears to assert that including apertures in the laminar contact is obvious because one could put holes into the contact to attach it to something else using screws ("to securely attach the contacts to the compliant members"). In an attempt to clarify that these apertures are not remotely similar to those cited by the Examiner, the claims have been amended to state that the apertures facilitate gas flow, which cannot be said of the type of screw holes contemplated by the Examiner.

(d) Obviousness to combine.

Contrary to the Examiner's assertion at page 6 of the Office Action, there is no motivation whatsoever to add a laminar plate with apertures to the invention of Franklin. Lenz does not teach a laminar contact, and Franklin and Lenz each teach away from such an addition, because the purpose of raised finger-type structures or compliant contacts is to provide better electrical conduction by allowing the electrical contacts to flex when in contact with an MEA that is not perfectly flat (see, e.g., paragraph [0021] of Lenz). The flexing allows each individual compliant contact to make contact with the MEA, regardless of the surface features of the MEA. It would not be obvious to attach a laminar plate to the compliant contacts.

3. Amendments Made Without Prejudice or Estoppel.

Notwithstanding the amendments made and accompanying traversing remarks provided above, Applicants have made these amendments in order to expedite allowance of the currently pending subject matter. However, Applicants do not acquiesce in the original ground for rejection with respect to the original form of these claims. These amendments have been made without any prejudice, waiver, or estoppel, and without forfeiture or dedication to the public, with respect to the original subject matter of the claims as originally filed or in their form immediately preceding these amendments. Applicants reserve the right to pursue the original scope of these claims in the future, such as through continuation practice, for example.

4. Conclusion.

Based on the foregoing, Applicants respectfully request that the various grounds for rejection in the Office Action be reconsidered and withdrawn with respect to the presently amended form of the claims, and that a Notice of Allowance be issued for the present application to pass to issuance.

In the event any further matters remain at issue with respect to the present application, Applicants respectfully request that the Examiner please contact the undersigned below at the telephone number indicated in order to discuss such matter prior to the next action on the merits of this application.

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Respectfully submitted,



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